

HOUSE No. 3390

The Commonwealth of Massachusetts

PRESENTED BY:

Kathi-Anne Reinstein

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to veterans agents and veterans benefits.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Kathi-Anne Reinstein	16th Suffolk
Elizabeth Poirier	14th Bristol
Stephen L. DiNatale	3rd Worcester
James Dwyer	30th Middlesex

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 3717 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO VETERANS AGENTS AND VETERANS BENEFITS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 1 of chapter 115 of the General Laws, as appearing in the 2004 Official Edition, is
2 hereby amended by striking out, in lines 52 through 57, the definition of “Veterans’ agent” or “Part-time veterans’
3 agent” and inserting in place thereof the following:—

4 “Full-time Veterans’ Service officer” shall mean a veteran, as defined in clause Forty-third of section 7 of chapter 4,
5 appointed under section 3 of this chapter to disburse benefits to a city, town or district, and who is a resident of the
6 Commonwealth, and trained and certified by the department of veterans’ services in accordance with regulations
7 published pursuant to this chapter and who works the regular hours full-time employees in the city, town or district
8 wherein he is employed but not less than thirty-five hours per week performing the duties of the veterans’ service
9 officer.

10 “Part-time Veterans’ Service officer” shall mean a veteran, as defined in clause Forty-third of section 7 of chapter 4,
11 appointed under section 3 of this chapter to disburse benefits, and who is a resident of the Commonwealth, and is
12 trained and certified by the department of veterans’ services in accordance with regulations published pursuant to
13 this chapter and who works such hours as are necessary to carry out his responsibilities under this chapter during
14 those regular hours the town hall and the office of the department of veterans’ services are open in the city or town
15 where he is employed.

16 SECTION 2. Section 2 of chapter 115 of the General Laws, as appearing the 2000 Official Edition, is hereby
17 amended by striking out in line 1, the word “agents” and inserting in place thereof the words:— service officers.

18 SECTION 3. Said section 2 of chapter 115 of the General Laws, as so appearing, is hereby further amended by
19 striking the third paragraph and inserting in place thereof the following:—

20 Any person aggrieved by a decision of the commissioner’s operations’ division, or by the failure of a city, town or
21 district to render adequate veterans’ benefits or to approve or reject an application for veterans’ benefits within three
22 days of receiving such application, or aggrieved by the withdrawal of such benefits, shall have the right to appeal to
23 the commissioner’s department for an administrative hearing. The right to a hearing shall be exercised by filing a

written appeal with the department within 21 calendar days of receipt of notice of said decision, action or failure to act of which the party is aggrieved. The hearing shall be conducted in accordance with the provisions of chapter 30A. Any person aggrieved by such an administrative decision, shall have a right to appeal within ten days of receipt of written notice, to the division of administrative law appeals established within the executive office of administration and finance pursuant to section four H of chapter seven, hereinafter in this section referred to as “the division”.

A hearing on such appeal held pursuant to this paragraph shall be conducted as an adjudicatory proceeding under chapter 30A. The division shall issue its decision within ninety days after the day of the filing of the appeal, except that when an aggrieved person appeals the rejection of his application for veterans’ benefits or the failure to act on said application or the failure of a city or town to render assistance to meet an emergency or hardship situation, the division shall render and issue its decision within forty-five days after the date of filing of said appeal. The decision of the division shall be subject to judicial review in accordance with the provisions of chapter 30A. The time for commencing such an action for judicial review shall run from the receipt of notice of the decision of the division. In such an action for judicial review, the record shall consist of (a) the entire proceedings before the division of administrative law appeals or (b) such portions thereof as the commissioner and the parties may stipulate, or (c) a statement of the case agreed to by the commissioner and the parties.

SECTION 4. Said section 2 of said chapter 115, as so appearing, is hereby further amended by deleting the fourth paragraph and inserting in place thereof the following:

Upon the written request of any mayor of a city or the selectmen of a town, or upon the written request of a veterans’ service officer or director of veterans’ services, or based upon an allegation made by any five veterans or dependents, or based upon any independent finding by the department that warrants an investigation, the commissioner shall investigate any matter relating to the administration therein of the provisions of this chapter and the expenses of such investigation shall be certified by him to the state treasurer who shall collect the same as an additional tax upon such city, town or district.

SECTION 5. Said section 2 of said chapter 115, as so appearing, is hereby further amended by striking out in lines 71 and 78, the word “agent” and “agents”, respectively, and inserting in place thereof the words:— service officer.

SECTION 6. Section 2A of chapter 115, as appearing in the 2000 Official Edition, is hereby amended in striking out said section and inserting in place thereof the following:—

If the department’s administrative hearing officer decides a controversy between an applicant and a veterans’ service officer relative to the validity or amount of a claim for veterans’ benefits, as provided in section two, in favor of the applicant, said veterans’ service officer shall, forthwith, make payment to the applicant in accordance with said decision notwithstanding any appeal there from by the veterans’ service officer. If the division of administrative law appeals sustains the appeal of said veterans’ service officer as to the validity of such claim, payment to the applicant

shall thereupon cease and all amounts paid to the applicant shall be reimbursed by the commonwealth in the manner provided in section six. If the division of administrative law appeals sustains the appeal of said veterans’ service officer as to the amount of such claim, payment to the applicant of any amount in excess of the amount approved by the division of administrative law appeals shall thereupon cease and all amounts paid to the applicant in excess of the amount so approved shall be reimbursed by the commonwealth in the manner provided by said section six.

The decision of the department’s administrative hearing officer, in accordance with the provisions of said section two, may be enforced by the superior court on a petition in equity.

SECTION 7. Section 3 of said chapter 115, as appearing in the 2000 Official Edition, is hereby amended by deleting the first paragraph and inserting in place thereof the following:—

66 The mayor of each city, except Boston, and the selectmen of each town, shall appoint a veterans' service officer to
67 act for him or them in the disbursement of veterans' benefits by such city or town; provided, however, that in each
68 town having a part-time veterans' service officer the town clerk shall receive applications and assist applicants for
69 veterans' benefits, and shall submit said applications to the veterans' services officer. Two or more contiguous
70 towns may, by vote of the selectmen, and subject to the approval of the commissioner, appoint one full-time
71 veterans service officer and such additional staff as necessary, and may apportion the payment of compensation
72 among such towns. Two or more non-contiguous towns, may, subject to approval of the commissioner, appoint one
73 full-time veterans service officer and such additional staff as necessary, and may apportion the payment of
74 compensation among such towns. The appointment of a veterans' service officer shall not create a civil service
75 position. Any person who is appointed to the position of veterans' service officer and certified by the Massachusetts

76 Department of Veterans' Services as a trained veterans' service officer, and who has held such position for not less
77 than three years, shall not be involuntarily separated and shall have the same rights and protection granted to any
78 veteran under section 9A of chapter 30 of the General Laws, notwithstanding that his or her prior appointments were
79 for a fixed term. Any local charter or bylaw contrary to these provisions and contrary to chapter 115 as it exists prior
80 to the effective date of the enactment of this law, shall govern.

81 SECTION 8. Said section 3 of said chapter 115, as so appearing, is hereby further amended by striking out in lines
82 10, 14, 18, 20, 22, the word "agent" and inserting in place thereof the words:— service officer.

83 SECTION 9. Section 4 of said chapter 115, as appearing in the 2000 Official Edition, is hereby amended by striking
84 out in lines 10, and 15 the word "agent" and inserting in place thereof the words:— service officer.

85 SECTION 10. Section 5 of said chapter 115, as appearing in the 2000 Official Edition, is hereby amended by
86 striking out the first paragraph and inserting in place thereof the following:—

87 Veterans' benefits shall be paid to a veteran or dependent by the city or town wherein he resides.

88 SECTION 11. Said section 5 of said chapter 115, as so appearing, is hereby further amended by striking out in lines
89 29, 57, 60, 69, and 85, the word "agent" and inserting in place thereof the words:— service officer.

90 SECTION 12. Said section 5 of chapter 115, as so appearing, is hereby further amended by striking out in line 44,
91 the word "idleness" and inserting in place thereof the word:— unemployment.

92 SECTION 13. Said section 5 of chapter 115, as so appearing, is further amended by striking out in line 44, the words
93 "continuous vicious habits" and inserting in place thereof the words:— unwholesome habits.

94 SECTION 14. Said section 5 of chapter 115, as so appearing, is hereby further amended by striking out in line 103,
95 the word "budget" and inserting in place thereof the following words:— schedule of benefits.

96 SECTION 15. Section 5A of chapter 115, as appearing in the 2000 Official Edition, is hereby amended by striking
97 out in lines 5, 25, 42, and 48 the word "agent" and inserting in place thereof the words:— service officer.

98 SECTION 16. Section 6 of chapter 115, as appearing in the 2000 Official Edition, is hereby amended by striking out
99 in line 13, the word "agent" and inserting in place thereof the words:— service officer.

100 SECTION 17. Section 7 of chapter 115, as appearing in the 2000 Official Edition, is hereby amended by striking out
101 in line 2, the word "agent" and inserting in place thereof the words:— service officer.

102 SECTION 18. Section 10 of chapter 115, as appearing in the 2000 Official Edition, is hereby amended by striking
103 out in line 16 the word "Two" and inserting in place thereof the following:—Subject to the commissioner's
104 approval, two.

105 SECTION 19. Section 15 of chapter 115, as so appearing, is hereby amended by striking out in lines 1 and 2 the
106 words “department of corporation and taxation” and inserting in place thereof the words:— department of revenue.